

**§ 3.558 Resumption and payment of withheld benefits; incompetents with estates that equaled or exceeded statutory limit.**

(a) Where payment has been discontinued by reason of § 3.557(b), it will not be resumed during hospitalization except as provided in § 3.557(e) or paragraph (b) of this section until proper notice has been received showing the estate is reduced to one-half the amount specified in § 3.557(b)(4) or less. Payments will not be made for any period prior to the date on which the estate was reduced to one-half the amount specified in § 3.557(b)(4) or less.

(Authority: 38 U.S.C. 5503)

(b) Payments for the veteran will be resumed and apportionment awards discontinued under the applicable provisions of § 3.556(a), (d), and (e) upon authorized absence from the hospital for 30 days or more or a regular or irregular discharge or release. Care and maintenance payments to an institution will not be made for any period the veteran is not receiving such care and maintenance.

(c) Any amount not paid because of the provisions of § 3.557(b), and any amount of compensation or retirement pay withheld pursuant to the provisions of § 3.551(b) (and/or predecessor regulatory provisions) as it was constituted prior to August 1, 1972, and not previously paid because of the provisions of § 3.557(b), will be awarded to the veteran if he or she is subsequently rated competent by VA for a period of not less than six months.

(Authority: 38 U.S.C. 5503)

[27 FR 7679, Aug. 3, 1962, as amended at 36 FR 25225, Dec. 30, 1971; 38 FR 34116, Dec. 11, 1973; 40 FR 45170, Oct. 1, 1975; 41 FR 18412, May 4, 1976; 50 FR 50617, Dec. 11, 1985; 58 FR 34224, June 24, 1993; 66 FR 48560, Sept. 21, 2001]

**§ 3.559 Resumption—where the estate equals or exceeds the statutory limit and includes chose in action.**

(a) Where payments have been discontinued because of hospitalization and there exists only a claim against a defunct bank, or other institution, or the entire estate is the subject of litigation, or consists of investments of undetermined value, and there is no income to provide for clothing and other

needs, and comforts for the veteran, the Veterans Services Officer may consider the guardian's statement setting forth the facts and estimating what the said claim or chose in action would sell for in the open market. If the Veterans Services Officer is satisfied that the value of the estate does not exceed one-half the amount specified in § 3.557(b)(4), he or she will prepare a certificate to that effect. Upon receipt of this certification by the adjudication division, payments will if otherwise in order be authorized effective the first day of the month in which award action is taken.

(b) When the claim is settled or litigation terminated the Veterans Services Officer will again review the case and, if the estate equals or exceeds the amount specified in § 3.557(b)(4), will forward an appropriate certification to the adjudication division.

(c) Special cases which do not come within this section or where money is urgently needed should be reported to the Office of the Under Secretary for Benefits.

[26 FR 1598, Feb. 24, 1961, as amended at 40 FR 14570, Oct. 1, 1975; 50 FR 50617, Dec. 11, 1985; 61 FR 20727, May 8, 1996; 66 FR 48561, Sept. 21, 2001]

ADJUSTMENTS AND RESUMPTIONS

**§ 3.650 Rate for additional dependent.**

(a) *Running awards.* Except as provided in paragraph (c) of this section where a claim is filed by an additional dependent who has apparent entitlement which, if established, would require reduction of pension, compensation or dependency and indemnity compensation being paid to another dependent, payments to the person or persons on the rolls will be reduced as follows:

(1) Where benefits would be payable from a date prior to the date of filing claim, the reduction will be effective from the date of potential entitlement of the additional dependent.

(2) Where benefits would be payable from the date of filing claim, the reduction will be effective the date of receipt of the claim by the additional dependent, or date of last payment, whichever is later.